

§ 125.16

(including options), a contracting officer must request that a business concern recertify its SDVO SBC status no more than 120 days prior to the end of the fifth year of the contract, and no more than 120 days prior to exercising any option.

(3) A business concern that did not certify itself as an SDVO SBC, either initially or prior to an option being exercised, may recertify itself as an SDVO SBC for a subsequent option period if it meets the eligibility requirements at that time.

(4) Recertification does not change the terms and conditions of the contract. The limitations on subcontracting, nonmanufacturer and subcontracting plan requirements in effect at the time of contract award remain in effect throughout the life of the contract.

(5) Where the contracting officer explicitly requires concerns to recertify their status in response to a solicitation for an order, SBA will determine eligibility as of the date the concern submits its self-representation as part of its response to the solicitation for the order.

(6) A concern's status may be determined at the time of a response to a solicitation for an Agreement and each order issued pursuant to the Agreement.

[69 FR 25268, May 5, 2004, as amended at 70 FR 14527, Mar. 23, 2005; 78 FR 61143, Oct. 2, 2013]

§ 125.16 Does SDVO SBC status guarantee receipt of a contract?

No, SDVO SBCs should market their capabilities to appropriate procuring agencies in order to increase their prospects of having a procurement set-aside for SDVO contract award.

§ 125.17 Who decides if a contract opportunity for SDVO competition exists?

The contracting officer for the contracting activity decides if a contract opportunity for SDVO competition exists.

13 CFR Ch. I (1–1–15 Edition)

§ 125.18 What requirements are not available for SDVO contracts?

A contracting activity may not make a requirement available for a SDVO contract if:

(a) The contracting activity otherwise would fulfill that requirement through award to Federal Prison Industries, Inc. under 18 U.S.C. 4124 or 4125, or to Javits-Wagner-O'Day Act participating non-profit agencies for the blind and severely disabled, under 41 U.S.C. 46 *et seq.*, as amended; or

(b) An 8(a) participant currently is performing that requirement or SBA has accepted that requirement for performance under the authority of the section 8(a) program, unless SBA has consented to release of the requirement from the section 8(a) program.

§ 125.19 When may a contracting officer set-aside a procurement for SDVO SBCs?

(a) The contracting officer first must review a requirement to determine whether it is excluded from SDVO contracting pursuant to § 125.18.

(b) *Contracting Among Small Business Programs.*

(1) *Acquisitions Valued At or Below the Simplified Acquisition Threshold.* The contracting officer shall set aside any acquisition with an anticipated dollar value exceeding the Micro-purchase Threshold but not exceeding the Simplified Acquisition Threshold (defined in the FAR at 48 CFR 2.101) for small business concerns when there is a reasonable expectation that offers will be obtained from at least two small business concerns that are competitive in terms of quality and delivery and award will be made at fair market prices. This requirement does not preclude a contracting officer from making an award to a small business under the 8(a) BD, HUBZone, SDVO SBC or WOSB Programs.

(2) *Acquisitions Valued Above the Simplified Acquisition Threshold.* (i) The contracting officer shall set aside any acquisition with an anticipated dollar value exceeding the Simplified Acquisition Threshold (defined in the FAR at 48 CFR 2.101) for small business concerns when there is a reasonable expectation that offers will be obtained from at least two small business concerns